SUPREME COURT OF THE UNITED STATES.

No. 361.

THE CHICAGO CITY RAILWAY COMPANY, PLAINTIFFS IN ERROR,

vs.

MARY BOUR.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

INDEX.

	Original.	Print.
Bond for costs	1	1
Præcipe	2	1
Summons	3	2
Declaration	4	3
Plea	10	5
Record entries	11	6
Judgment	13	6
Appeal bond	13	7
Writ of error	17	8
Citation	19	8

1 Pleas in the circuit court of the United States within and for the northern district of Illinois, before the Hon. Thomas Drummond, district judge of said district, and in the absence pro tempore of the Hon. David Davis, associate justice of the Supreme Court of the United States, sole judge of said circuit court, on the twentieth day of July, in the July term of said court, in the year of our Lord one thousand eight hundred and sixty-six, and of the independence of the United States the ninety-first year.

Present, the Hon. Thomas Drummond, judge.

MARY BOUR
vs.
CHICAGO CITY RAILWAY COMPANY. } Trespass on the case.

Be it remembered that heretofore, to wit, on the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and sixty-five, the plaintiff in the above-entitled cause, by Bates and Towslee, her attorneys, filed with the clerk of said circuit court her bond for costs and præcipe in the words and figures following, to wit:

Bond for costs.

Circuit court of the United States, northern district of Illinois.

MARY BOUR
vs.
THE CHICAGO CITY RAILWAY COMPANY.

2 We enter ourself security for costs in this cause and promise to pay all costs which may accrue to the opposite party in this action or to any of the officers of this court, and in default of payment by the plaintiff of any costs ordered or adjudged to be paid by him, we hereby agree and stipulate that execution may issue against our property for any costs taxed against us.

Dated this 29 day of Nov'r, 1865.

BATES & TOWSLEE.

Indorsed: Filed Nov. 29, 1865.

WM. H. BRADLEY, *Cl'k.*

Præcipe.

MARY BOUR, an alien and a subject of Louis 3, Grand Duke of Hesse Darmstadt, Germany, plaintiff,
vs.
THE CHICAGO CITY RAILWAY COMPANY, of the northern district of Illinois.

To clerk circuit court United States for northern district of Illinois:

SIR: Please issue a summons in above-entitled cause in a plea of

trespass on the case, damages ten thousand dollars, returnable at next term of said court.

Yours,

BATES & TOWSLEE,
Attys. for Plaintiff.

Indorsed: Filed Nov. 29, 1865.

WM. H. BRADLEY, *Cl'k.*

3 And thereupon a writ of summons issued out of said court in said cause as directed, which summons, together with the return thereon, is in the words and figures following, to wit:

Summons.

CIRCUIT COURT OF THE UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America, to the marshal of the northern district of Illinois, greeting:

We command you that you summon the Chicago City Railway Company, if it shall be found in your district, to be and appear before our judges of our circuit court of the United States for the northern district of Illinois, at the next term thereof, to be holden at Chicago in the district aforesaid, on the third Monday of December next, to answer unto Mary Bour in a plea of trespass on the case to her damage as she alleges of ten thousand dollars, and have you then and there this writ.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at Chicago aforesaid, this 29th day of November, in the year of our Lord one thousand eight hundred and sixty-five, and of our independence the 90th year.

[SEAL.] WM. H. BRADLEY, *Clerk.*

50-ct. int. rev. stamp, cancelled.

4 *Indorsed.*

I have executed the within writ by reading the same to and in the presence and hearing of Samuel M. Nickerson, the president of "the Chicago City Railway Company," the defendant named in said writ, and delivering to him as president aforesaid a true copy thereof, this 1st day of December, A. D. 1865.

J. R. JONES, *U. S. Marshal.*
By A. B. COTES, *Deputy.*

Filed Dec. 15th, A. D. 1865.

WM. H. BRADLEY, *Clerk.*

And afterwards, to wit, on the first day of December, A. D. 1865, the said plaintiff, by her said attorneys, Bates & Towslee, filed in said court her declaration against the defendant in said cause in the words and figures following, to wit:

Declaration.

United States of America, circuit court of the United States, northern district of Illinois, December term, 1865.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Mary Bour, who is an alien and a subject of Louis 3d, Grand Duke of Hesse Darmstadt, Germany, by Bates and Towslee, her attorneys, complains of the Chicago City Railway Company, a corporation created by and organized under and by virtue of the laws of the State of Illinois, who is a citizen of the State of Illinois, located and doing business in the city of Chicago, in the northern district of Illinois, in a plea of trespass on the case. For that whereas, the said defendant before and at the time of committing the grievances next hereinafter mentioned, was the owner of a certain railroad car, moved and propelled by horses, and also of two certain horses by which said railroad car was moved and propelled, by it used and employed in carrying and conveying passengers up and down State street, in the city of Chicago, in the district aforesaid; and being such owner and proprietor of the said railroad car, and of the said horses moving and propelling the said railroad car, the said defendant, on the twenty-seventh day of July, A. D. 1864, at Chicago, to wit, at State street, near to a street intersecting said State street called Archer road, in said city of Chicago, in aforesaid district, received into the said railroad car the plaintiff as passenger therein, to carry her from a point on said State street near Archer road down said State street to Randolph street, in said city and district aforesaid, for certain fare and reward; and by reason thereof the said defendant ought carefully to have conveyed said plaintiff from the place on said State street, where said defendant received said plaintiff in said railroad car, down said State street to Randolph street in said city of Chicago, and at said Randolph street to have allowed said plaintiff to carefully, and with safety to plaintiff to remove and depart from said railroad car. Yet the said defendant, not regarding its duty in this behalf, conducted itself so carelessly, negligently, and unskilfully in this behalf, that by and through the carelessness, negligence, unskilfulness and default of itself and its servants, in suddenly starting said horses and the said car, after the arrival of said car at Randolph street, in said city, and after said defendant had stopped said horses and railroad car at said Randolph street to allow said plaintiff to remove herself and depart from said railroad car, and at the time said plaintiff was stepping from the step on the rear end of said car to the street, by means whereof said plaintiff, without any fault or negligence on her part, was thrown, with great violence and force, upon the pavement in said State street, her thigh broken and her body bruised, and thereby then and there said plaintiff became and was very sick, sore, and helpless, and the said plaintiff has remained sick, sore, and helpless for a long space of time, to wit, from thence, henceforth, hitherto at the city of Chicago in the district aforesaid, during all which last mentioned time

the said plaintiff has been forced and obliged to lay out and expend, and did lay out and expend, divers sums of money, in the whole amounting to one thousand dollars, in and about the attempting the cure of herself, and the procuring the necessary surgical care, medicines, attendance, means of cure, and assistance during her said sickness, weakness, helplessness, and disorders which ensued as aforesaid, from the being thrown upon the said pavement in said State street, breaking her thigh, her bodily bruises, hurts, and injuries as aforesaid, and the said plaintiff was thereby prevented from pursuing and prosecuting her daily affairs and business for a long space of time, to wit, from the said twenty-seventh day of July, 1864, to the time of the commencement of this suit, and was otherwise greatly damaged and injured, to wit, at the city of Chicago in the district aforesaid; also for that whereas the said defendants, before and at the time of committing the grievances next hereinafter, was the owner and proprietor of a certain other railroad car moved and propelled by horses, and were also the owners of two certain other horses, by it used and employed in conveying and
8 carrying passengers up and down State street, in the city of Chicago in the district last aforesaid, and being such owner and proprietor of said railroad car and horses, the said defendant, on the twenty-seventh day of July, 1864, on State street, near Nineteenth street, in the city of Chicago, in the district aforesaid, received into the said railroad car the plaintiff as passenger therein, from the point and place near said Nineteenth street, where said plaintiff was received into said railroad car by said defendant, to Randolph street in said city of Chicago aforesaid, for a certain reward and fare, and by reason thereof the said defendant ought carefully to have conveyed said plaintiff, in the last-mentioned railroad car, moved and propelled by said last-mentioned horses from the point and place in said State street near Nineteenth street to Randolph street in said city of Chicago, and at said Randolph street to have allowed said plaintiff to remove and depart from said railroad car with safety to herself, and without injury to said plaintiff. Yet the said defendant, not regarding its duty in this behalf, conducted itself so carelessly, negligently, and unskilfuly in this behalf, that by and through the carelessness, negligence, unskilfulness and default of itself
9 and its servants, in suddenly starting said railroad car, and said horses attached to said car, when near Randolph street, in said city, at the time said plaintiff was departing from said railroad car, and after said car and horses had been stopped in said State street near to said Randolph street, that the said plaintiff might remove herself and depart from said railroad car as aforesaid, to wit, at the city of Chicago, in the district aforesaid, by means whereof the said plaintiff, without any fault or negligence on her part, was thrown with great violence upon the pavement in said State street, in said city of Chicago, her thigh broken, her body injured and bruised, and thereby then and there became and was sick, lame, sore, weak, and distempered. And the said plaintiff has remained and continued sick, lame, sore, weak, and distempered for a long

space of time, to wit, from thenceforth, hitherto, at Chicago, in the district aforesaid, during all which last-mentioned time the said plaintiff was hindered and prevented from performing and transacting her lawful affairs and business by her during that time to be done and transacted; and also by means of the premises, was forced and obliged to pay, lay out, and expend, and has nescessarily
10 paid, laid out, and expended, divers sums of money, in the whole amounting to a large sum of money, to wit, the sum of one thousand dollars in and about the endeavoring to be healed and cured of her said wounds, hurts, and bruises, and occasioned as aforesaid; and said plaintiff by means of the premises is otherwise greatly injured and damaged, to wit, at Chicago, in the district aforesaid, to the damage of the plaintiff ten thousand dollars, and therefore plaintiff brings this suit, &c.

BATES & TOWSLEE,
Pl'ff's Att'ys.

Indorsed: Filed Dec. 1st, 1865.

WM. H. BRADLEY, *Cl'k.*

And afterwards, to wit, on the twentieth day of December, in the year A. D. 1865, the said defendant, the Chicago City Railway Company, by McAllister, Jewett & Jackson, its attorneys, filed in said court, with the clerk thereof, its plea to the plaintiff's declaration in the words and figures following, to wit:

Plea.

United States cir. court, northern dist. of Illinois.

THE CHICAGO CITY RAILWAY COMPANY
ads.
MARY BOUR.

11 And the said defendant, by McAllister, Jewett & Jackson, its attorneys, comes and defends the wrong and injury, when, &c., and says that it is not guilty of the said supposed grievances, or any or either or any part thereof, in manner and form as the said plaintiff hath above thereof complained against it, and of this the said def't puts itself upon the country.

McALLISTER, JEWETT & JACKSON,
Def't's Att'ys.

And the plaintiff doth the like.

BATES & TOWSLEE,
Pl'ff Att'ys.

Indorsed: Filed Dec. 20, 1865.

WM. H. BRADLEY, *C'lk.*

And afterwards, to wit, on the fifth day of July, in July term, A D. 1866, of said court, in the record of the proceedings thereof in said cause is the following entry, to wit:

MARY BOUR
vs.
THE CHICAGO CITY RAILWAY COMPANY. } Trespass on the case.

Now come the parties, by their attorneys, and upon issue joined thereupon come a jury of good and lawful men, to wit: P. N. Newell, George Miestee, Samuel H. Gilbert, Thomas Tate, Dan. B.
12 Young, Benjamin Williams, A. W. Noe, Daniel B. McKinney, Frederick Bues, Reuben Cleveland, Reuben D. Dodge, and Samuel P. Coggenhall, who were all duly elected, tried, and sworn well and truly to try said issue, and after hearing the evidence, the arguments of counsel, and receiving the instructions of the court, the jury retire to consider of their verdict, and by agreement of the parties, by their attorneys, the jury, when they shall have agreed upon their verdict, may sign and seal the same and deliver it to the clerk and disperse.

And afterwards, to wit, on the sixth day of July, in July term, A. D. 1866, of said court, in the record of the proceedings thereof in said cause is the following entry, to wit:

MARY BOUR
vs.
THE CHICAGO CITY RAILWAY COMPANY. } Trespass on the case.

The jury in this behalf impanelled and sworn this day returned into court their sealed verdict, wherein they say: We, the jury, find the defendant guilty, and assess the plaintiff's damages to the sum of thirty-four hundred and twenty-five dollars; and thereupon the defendant, by its attorneys, move the court for a new trial herein.

13 And afterwards, to wit, on the twentieth day of July, in July term, A. D. 1866, of said court, in the record of the proceedings thereof in said cause is the following entry, to wit:

Judgment.

MARY BOUR
vs.
THE CHICAGO CITY RAILWAY COMPANY. } Trespass on the case.

Now come the parties, by their attorneys, and now comes on to be heard the motion of the defendant heretofore entered herein for a new trial of this cause, and after hearing the arguments of counsel the court overrules said motion and awards judgment upon the verdict. It is thereupon considered and adjudged by the court that the said plaintiff do have and recover of the said defendant the said sum of thirty-four hundred and twenty-five dollars, her damages so as aforesaid assessed, together with her costs and charges by her about her suit in this behalf expended, amounting to the sum of thirty-eight dollars and forty cents, and that she have execution therefor.

And afterwards, to wit, on the 28th day of July, A. D. 1866, the said defendant, by its att'ys, files its bonds in error in said court in said entitled cause, in the words and figures following, to wit:

14 Know all men by these presents, that we, the Chicago City Railway Company, principal, and Charles H. Walker and Daniel Thompson, of the city of Chicago, sureties, are held and firmly bound unto Mary Bour, of the same place, in the penal sum of eight thousand dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our successors, heirs, executors, and administrators, jointly, severally, and firmly by these presents.

In testimony whereof the said the Chicago City Railway Company has caused these presents to be signed by its president and secretary, and has hereunto affixed its corporate seal, and the said sureties have hereunto set their hand and seal, this 27th day of July, A. D. 1866.

The condition of the above obligation is such that whereas at the July term, A. D. 1866, of the circuit court of the United States of America in and for the northern district of Illinois, the above-named Mary Bour did recover a judgment in said court against the above-bounden the Chicago City Railway Company upon a certain plea of trespass on the case then lately pending in said court for the sum of three thousand four hundred and twenty-five dollars damages, besides the costs of said suit, upon which said judgment the
15 above-bounden the Chicago City Railway Company has brought a writ of error to the Supreme Court of the United States of America. Now, therefore, if the said the Chicago City Railway Company shall prosecute its said writ of error to effect and shall answer all damages and costs, if it, the said Chicago City Railway Company, shall fail to make its plea good, then this obligation to be void, otherwise to remain in full force and effect.

In testimony whereof the said the Chicago City Railway Company has caused these presents to be signed by its president and secretary and its corporate seal to be hereunto affixed, and the said sureties have hereunto affixed their hands and seals the day and year first above written.

HENRY FULLER,
Vice President of the Chicago City Railway Company.
[SEAL.] THOS. H. SANFORD,
Acting Secretary Chicago City Railway Company.
[SEAL.] CHARLES H. WALKER.
[SEAL.] DANIEL THOMPSON.

[$1 int. rev. stamp.]

Indorsed: Approved.

THOMAS DRUMMOND.

[$3 int. rev. stamp.]

Filed July 28, 1866.

WM. H. BRADLEY, *Clerk.*

16 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States within and for said northern district of Illinois, do hereby certify the foregoing transcript, from pages one to fifteen, inclusive, to contain a true, full, and perfect copy from the record of all the proceedings which have been had in said court in said cause of Mary Bour against The Chicago City Railway Company, as the original of the same now remains in my custody, and I further certify that the writs of error and citation issued out by the plaintiff in error in said cause are herewith appended to this record.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office in Chicago, in said northern district of Illinois, this third day of December, A. D. 1866.

[L. S.] WILLIAM H. BRADLEY, *Clerk.*

[5-ct. stamp, cancelled.]

17 Circuit court of the United States, northern district of Illinois.

The United States of America to the judges of the circuit court of the United States for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between Mary Bour, plaintiff, and the Chicago City Railway Company, defendant, a manifest error hath happened to the great damage of the said the Chicago City Railway Company, as by its complaint appears, and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the party aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first
18 Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this twenty-seventh day of July, in the year of our Lord one thousand eight hundred and sixty-six, and of our independence the ninety-first.

[L. S.] WM. H. BRADLEY, *Clerk.*

19 The United States of America to Mary Bour, greeting:

You are hereby cited and admonished to be and appear at th e Supreme Court of the United States, at a term thereof to be begun and holden in the city of Washington, in the District of Columbia, on the first Monday of December next, pursuant to a writ of error filed in the office of the clerk of the circuit court of the United States

for the northern district of Illinois, wherein the Chicago City Railway Company, who is a citizen and a corporation existing under and by virtue of the laws of the State of Illinois, is plaintiff in error, and you, Mary Bour, a subject of Louis III, Grand Duke of Hesse Darmstadt, in Germany, are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Thomas Drummond, judge of the circuit court of the United States for the northern district of Illinois, this 28th day of July, A. D. 1866.

THOMAS DRUMMOND.

We acknowledge service of a copy of the within citation upon us this 28th day of July, A. D. 1866.

BATES & TOWSLEE,
Attorneys for Mary Bour.

O

In the Supreme Court of the United States.

DECEMBER TERM, 1867.—No. 178.

THE CHICAGO CITY RAILWAY COMPANY,
Plaintiffs in Error,

vs.

MARY BOUR, *Defendant in Error.*

There seems to be no question reserved in the record, nor any suggested by the reading of the record. The case is manifestly brought to this Court for delay.

There is no appearance entered on part of the Plaintiffs in Error.

The Writ of Error was sued out of the Circuit Court of the United States for the Northern District of Illinois, and the execution of the judgment has been delayed for many months.

The Defendant in Error asks that the judgment in the Court below be affirmed, with ten per cent. damages and costs.

GEORGE C. BATES,
For Defendant in Error.